IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9886 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JADEJA JILUBHAI MAVUBHA

Versus

DIST DEVELOPMENT OFFICER

Appearance:

1. Special Civil Application No. 9886 of 1993

Ms.VINITA VINAYAK for MR PM THAKKAR for the Petitioner

MR PV HATHI for Respondent No. 1

MR LR PUJARI for Respondent No.2

CORAM : HON'BLE MR.JUSTICE R.K.ABICHANDANI

Date of decision: 27/08/2003

ORAL JUDGEMENT

#. The petitioner, who was elected as Sarpanch of the Khandhera Gram Panchayat in August, 1991 and took over

charge of the post on 13th September, 1991, challenges the order of his suspension made on 23rd July, 1993 under Section 51(1) of the Gujarat Panchayats Act, 1961, and the order dated 10.9.'93 made by the respondent no. 2, rejecting his appeal under Section 51(3) of the said Act against the order of his suspension.

#. The ground of suspension of the petitioner was that there was a complaint filed against him on 28.1.'93 for the offences under Sections 323, 506(2) and 114 of I.P.C., and under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

#. According to the petitioner, the impugned orders were made without giving him an adequate opportunity of being heard. In his reply, dated 19.6.'93, he had requested the respondent no. 1 that he wanted to examine certain witnesses whose names were mentioned in the said reply, and personal hearing was demanded. However, he was not given any such opportunity before making of the impugned order dated 23.7.'93, placing him under suspension. According to the petitioner, the complaint filed against him was false and fabricated, and was an offshoot of a money dispute, wherein the petitioner had refused to lend money to the complainant.

#. The respondents contested the petition by filing affidavit-in-reply, contending that criminal proceedings were instituted against the petitioner in respect of an offence involving moral turpitude.

#. It appears that when notice was issued on the petition on 27.9.'93, ad-interim relief was granted in terms of para-12(B) of the petition, as a result of which, the operation of the impugned orders came to be stayed. While issuing `Rule' on the petition on 2.5.'94, which was made returnable in June, 1994, the ad-interim relief earlier granted was ordered to continue. That is how the petitioner continued to enjoy the benefit of the interim relief. The petition was ordered to be heard in June, 1994, but it appears that after 2.5.'94, it never came to be listed for hearing as per the direction contained in the order.

#. Under Section 45(1)(b) of the Gujarat Panchayats Act, 1961, the term of office of the Sarpanch of a Gram Panchayat was co-extensive with the term of the Panchayat, and as per Section 17(1) of that Act, the term of a Panchayat as constituted at its first meeting was to be of five years from the date of such meeting. In view of the interim order, the petitioner has worked

throughout his tenure and the delay in disposal of the petition has, unfortunately, worked in favour of the petitioner, despite the impugned orders suspending him on the ground that criminal prosecution was pending against him in respect of an offence involving moral turpitude. Since the petitioner has been able, by virtue of the aid of the interim order, to complete his tenure, the present petition has become infructuous. Therefore,, without going into the correctness of the allegations made in the petition challenging the impugned orders, the petition is rejected as having become infructuous. Rule is discharged with no order as to costs. Interim relief stands vacated.

[R.K. ABICHANDANI, J.]
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